

Before the court is a motion to alter or amend judgment filed by Petitioner pursuant to Federal Rule of Civil Procedure 59(e). On December 3, 2009, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On December 10, 2009, the magistrate judge ordered Petitioner to file a supplemental brief and to show cause why his petition should not be dismissed. On December 17, 2009, Petitioner filed the supplemental brief. On December 22, 2009, the magistrate judge filed a report recommending dismissal of the petition. Petitioner did not file objections to the report and recommendation. On January 11, 2010, this court issued an order adopting the report and recommendation and closed the case. On January 13, 2010, Petitioner filed a document entitled “Motion to Amend Supplement Brief.” The document was deemed to be a motion for reconsideration of this court’s order of January 11, 2010. The court gave consideration to the contents of that motion but reaffirmed its decision of January 11, 2010. On January 22, 2010, Petitioner filed the instant motion.

In the instant motion, Petitioner alleges that he did not file objections to the report and recommendation because he did not receive the report and recommendation. A review of the docket shows the report and recommendation was mailed to Petitioner at FCI-Allenwood, PO Box 2000, White Deer, PA 17887, the same address used for all other orders. The mail was not returned to the Clerk of Court. It is this court's belief that the report and recommendation was received by Petitioner.

In Petitioner's motion to alter or amend judgment there is an attachment as an exhibit entitled "Supplemental Petition." On page one of that exhibit, Petitioner takes issue with the magistrate judge's interpretation of the case *In re Dornsainville*, 119 F.3d 245 (3d Cir. 1997), which the magistrate judge cites on pages 4 and 6 of the report and recommendation. The only document from the court citing this case was the report and recommendation. It should also be noted that the magistrate judge did consider the supplemental brief filed by Petitioner. (*See* Report and Recommendation, doc. 5, at p. 7.)

None of the documents filed by Petitioner in this case address the fundamental defect in his petition – why relief under 28 U.S.C. § 2255 would be ineffective or inadequate in his case. Petitioner continues to argue that the court should liberally apply the habeas statutes to his case in a fashion which ignores the jurisdictional limits to relief under § 2241.

The motion will be denied. An appropriate order will be issued.

s/Sylvia H. Rambo  
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SYLVIA H. RAMBO  
United States District Judge

Dated: January 27, 2010.

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